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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,284	03/10/2004	David Kirchhoff	03968-P0001C	2939

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
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STAMFORD, CT 06905-5619

EXAMINER

RIVIERE, HEIDI M

ART UNIT	PAPER NUMBER
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3689

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05/11/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID KIRCHHOFF, LISA CONNELLY, ANNA CROOK,
SHEILA KELLY, KAREN MILLER-KOVACH, AMIE PERL, PALMA
POSILLICO, THILO SEMMELBAUER, and AMY SHEPPARD

Appeal 2010-004888
Application 10/797,284
Technology Center 3600

Before DALE M. SHAW, *Division 2 Support Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This is a Director ordered remand under 37 CFR §41.35(c) for the matter identified below. Accordingly, the application is herewith being remanded to the Examiner.

This application was electronically received at the Board of Patent Appeals and Interferences on March 2, 2010. A Docketing Notice was mailed and Appeal No. 2010-004888 was assigned on March 23, 2010.

Claims 7-16, 19-29, and 33-47 of the instant application contain functional language that may be indefinite under 35 U.S.C. § 112, 2nd

paragraph. *See Ex Parte Rodriguez*, 2009 WL 3756279 (BPAI 2009) and *Aristocrat Techs. Austl. Pty. Ltd. v. Int'l. Game Tech.*, 521 F.3d 1328 (Fed Cir. 2008). On September 2, 2008 the Deputy Commissioner for Patent Examination Policy, John J. Love, issued a memorandum entitled “Rejections under 35 U.S.C. 112, second paragraph, when examining means (or step) plus function claim limitations under 35 U.S.C. 112, sixth paragraph”, located at:

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section_112_6th_09_02_2008.pdf . Thus, there is a question as to whether claims 7-16, 19-29, and 33-47 and the claims which depend upon these claims, meet the requirements of being definite under 35 U.S.C. § 112, 2nd paragraph.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 7-16, 19-29, and 33-47 and the claims which depend upon these claims, meet the requirements of 35 U.S.C. § 112, 2nd paragraph.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/mls

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